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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/994,644	11/28/2001	Robert Gary Goodman	PF02047NA/10-33	8587
23400	7590	03/15/2005	EXAMINER	
POSZ LAW GROUP, PLC 11250 ROGER BACON DRIVE SUITE 10 RESTON, VA 20190			GIANOLA, JOHN F	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 03/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/994,644

Applicant(s)

GOODMAN ET AL.

Examiner

John F Gianola

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20030221.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5, 9, 12-17, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Theriault et. al. (US Pat. No. 6,049,821).

3. As to Claim 1, Theriault et. al. disclose:

Retrieving the file from a server (see column 8, lines 34-36);

Evaluating the file to determine whether resources required for utilization of the file are available (see column 10, lines 27-30 and 39-42);

Forwarding the file to the consumer when said resources are available (see column 10, lines 27-30 and lines 39-42); and

Forwarding a message corresponding to the file to the consumer of the file when the resources are unavailable (see column 18, lines 39-52; column 19, lines 58-67; and column 20, lines 51-53).

4. As to Claim 2:

Wherein said step of evaluation said file includes a step of assessing whether network resources are available to transport said file (see column 22, lines 21-26).

5. As to Claim 3:

Wherein said step of assessing further includes determined whether a channel with appropriate quality of service is available for transporting said file (see column 22, lines 21-26 and 45-48).

6. As to Claim 4:

Wherein said step of evaluating said file includes a step of assessing communications unit resources required for utilization of said file (see column 10, lines 27-30 and lines 39-45).

7. As to Claims 5 and 17:

Wherein said step of assessing said communications unit resources includes determining one of a size of the file (see column 16, lines 7-9), a graphic content of the file (see column 17, lines 39-41), a post transport processing capacity corresponding to the file (see column 10, lines 43-45), and a display capability required for the file (see column 17, lines 27-30).

8. As to Claim 9:

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A transceiver for interfacing to a radio access network (see column 1, line 35; column 4, lines 29-31; column 6, line 40; and column 22, lines 21-22);

A user input output (I/O) including a display (see column 6, lines 39-42); and

A controller, couple to said transceiver and said user I/O, further comprising a browser that operates to:

Request a file located at a network server (see column 3, lines 43-45),

Receive the file when resources for utilization of the file are available (see column 10, lines 27-30 and lines 39-42), and

Receive a message corresponding to the file when said resources are unavailable (see column 18, lines 39-52; column 19, lines 58-67; column 20, lines 51-53).

9. As to Claim 12:

wherein a reminder corresponding to said file is shown on said display until said file is received (see column 18, lines 39-52; column 19, lines 58-67; column 20, lines 51-53).

10. As to Claim 13:

A gateway operating to selectively forward files to a communications device, the gateway comprising in combination:

a first port arranged to communicate with the communications device (see column 5, lines 45-48);

a second port arranged to communicate with a server (see column 5, lines 50-51); and

a controller, coupled to said first port and to said second port (see column 5, lines 55-59),

operating as an agent for the communications device for:

retrieving a file from said server (see column 8, lines 34-36);

evaluating said file to determine whether resources required for utilization of said file are available (see column 10, lines 27-30 and lines 39-42);

forwarding said file to the communications device when said resources are available (see column 10, lines 27-30 and lines 39-42); and

forwarding a message corresponding to said file to the communications device when the resources are unavailable (see column 18, lines 39-52; column 19, lines 58-67; and column 20, lines 51-53).

11. As to Claim 14:

Wherein evaluating said file includes assessing whether radio network resources are available to transport said file (see column 22, lines 21-26 and 45-48).

12. As to Claim 15:

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Wherein said assessing further includes determining whether a channel with appropriate quality of service is available for transporting said file (see column 22, lines 45-48).

13. As to Claim 16:

Wherein said evaluating said file includes a step of assessing communications device resources required for utilization of said file (see column 10, lines 27-30 and lines 39-45).

14. As to Claim 21:

Operating to trigger a reminder corresponding to said file at a second communications device (column 21, lines 41-60).

Claim Rejections - 35 USC § 103

15. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

16. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

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1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

17. Claims 6, 8, 10, 11, 18- 20, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Theriault et. al. in view of Cohen-Levy et. al. (US Pat. No. 5,423,034).

18. Theriault et. al. teach,

With respect to Claims 6 and 18:

Wherein said step of forwarding said message corresponding to the file includes forwarding a message indicating that appropriate resources are unavailable (see column 18, lines 39-52; column 19, lines 58-62; and column 20, lines 51-53), and saving the file, but not querying the user about saving the file. Cohen-Levy et. al. do, however, teach asking the consumer whether one of the file and an address for the file should be saved for later consumption (see Cohen-Levy et. al: column 15, lines 19-30).

19. With respect to Claims 8 and 20:

Triggering a reminder corresponding to said file for the consumer at a communications unit and removing said reminder when said file has been

accessed (see column 18, lines 39-52; column 19, lines 58-67; column 20, lines 51-53).

20. With respect to Claims 10 and 11, and 18, Theriault, et. al. teach the limitations of Claims 9 and 13 as noted above, as well as saving the file, but fail to teach specifically query the user for a saving location. Cohen-Levy et. al. teach wherein said message is coupled to said display and offers a choice of saving one of said file and an address for said file (see Cohen-Levy et. al: column 15, lines 19-30) and wherein said message offers a choice of locations for saving said one of said file and said address for said file (see Cohen-Levy et. al: column 15, lines 19-30).

21. Claim 22 is rejected under 25 U.S.C. 103(a) as being unpatentable over Theriault et. al. Theriault et. al. teach communicating a reminder to a user with a non-proxy communications service (column 21, lines 41-60). Theriault et. al. do not teach the specific use of email. However, Official Notice is hereby taken that email is a well-known technology used to quickly and efficiently communicate electronically. It would have been obvious to one of ordinary skill in the art at the time of the invention to use email in the invention of Theriault et. al. in order to speed up the communications with the client, and to make those communications more efficient.

22. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the invention of Theriault et. al. with the Network File Management

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of Cohen-Levy et. al., which are from the same field of endeavor, in order to allow users to easily locate and find information about the files saved (see Cohen-Levy: column 6, lines 40-43).

Conclusion

23. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Kikinis, "System in Which a Proxy-Server Translates Information Received from the Internet into a Form/Format Readily Usable by Low Power Portable Computers (US Pat. No. 5,727,159).


Any inquiry concerning this communication or earlier communications from the examiner should be directed to John F Gianola whose telephone number is (571)272-3848. The examiner can normally be reached on Mon - Fri (8:30 - 5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached at (571)272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jfg


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